

Report Date: January 18, 2013

United States District Court

for the

Eastern District of Washington

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Daniel Martin McFadden

Case Number: 2:07CR00165-001

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, Senior U.S. District Judge

Date of Original Sentence: 7/24/2008

Type of Supervision: Supervised Release

Original Offense: Possession with the Intent to
Distribute 100 Grams or More of a Mixture or
Substance Containing a Detectable Amount of
Heroin, 21 U.S.C. § 841(a)(1) Possession with the
Intent to Distribute 100 Grams or More of a Mixture
or Substance Containing a Detectable Amount of
Heroin, 21 U.S.C. § 841(a)(1)

Date Supervision Commenced: 7/30/2011

Original Sentence: Prison - 60 Months
TSR - 96 Months

Date Supervision Expires: 7/29/2019

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 21 You shall participate in the home confinement program for 120 days. You shall abide by all the requirements of the program, which will not include electronic monitoring or other location verification system. You shall pay all or part of the costs of the program based upon your ability to pay. You are restricted to your residence at all times except for employment, education, religious services, medical, substance abuse, or mental health treatment, attorney visits, court appearances, court-ordered obligations, or other activities as pre-approved by the supervising officer.

CAUSE

On January 11, 2013, a criminal records check revealed that Mr. McFadden had been arrested on January 5, 2013, for criminal traffic violations. More specifically, Mr. McFadden failed to stop at a red light while traveling west on Sprague Avenue and as a result, collided with another vehicle. Mr. McFadden failed to remain at the scene of the accident and was apprehended by police. Police further determined that Mr. McFadden was driving under the influence of alcohol. His blood alcohol level was .240 and he was unable to complete the field sobriety testing. He has subsequently been charged with hit-and-run attended vehicle and driving under the influence. Additionally, Mr. McFadden was cited for failing to wear a safety belt and operating a vehicle without insurance.

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Mr. McFadden failed to notify his supervising probation officer of this arrest and the charges filed against him. He currently has a condition prohibiting the consumption of alcohol.

The criminal records check also revealed that Mr. McFadden was the victim in a domestic violence assault on December 22, 2012. A review of the police report indicated that Mr. McFadden was consuming alcohol at a work-related Christmas party at Northern Quest Casino. The female with him, Ms. Penny Harrison, became intoxicated and was seen on camera starting an altercation with Mr. McFadden. Security spoke with Mr. McFadden about the altercation, and the camera footage revealed that he was not the perpetrator. Ultimately, Ms. Harrison was arrested as a result of the altercation for fourth degree assault domestic violence. It should be noted that Ms. Harrison is also a convicted felon with a significant history of alcohol-related offenses.

Mr. McFadden met with the supervising officer on January 14, 2013, to discuss his violation behavior. He admitted to the violations and signed the attached "Waiver of Hearing to Modify Conditions of Supervision," and understands the rationale behind the modification. He was verbally admonished for his consumption of alcohol and the problems that have come about as a result of his violating this condition. Mr. McFadden acknowledged that his consumption of alcohol has resulted in serious consequences that threaten the life he is building, through full-time school and employment. He was directed to cease contact with Ms. Harrison as a result of the domestic altercation and her history of alcohol abuse and felony. He agreed not to have further contact with her and reported that he was unaware of her status as a felon.

In addition to imposed condition for home confinement, Mr. McFadden has been referred for a drug and alcohol assessment and will follow the recommendations of the treatment provider. He is scheduled for an assessment at Adept on January 29, 2013. Due to the new criminal law violations, he is currently testing for alcohol twice per week through American Drug Testing as a requirement of Spokane County court. He potentially faces additional penalties if he is found guilty of the aforementioned charges.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 01/18/2013

s/Cassie Lerch

Cassie Lerch

U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
☐ The Extension of Supervision as Noted Above
☒ The Modification of Conditions as Noted Above
☐ Other

s/ Edward F. Shea

Signature of Judicial Officer

January 18, 2013

Date